

AMENDED IN ASSEMBLY AUGUST 30, 2000

AMENDED IN SENATE MAY 23, 2000

AMENDED IN SENATE APRIL 25, 2000

**SENATE BILL**

**No. 1759**

---

**Introduced by Senator Lewis**

February 23, 2000

---

An act to amend Section 41365 of, and to add Sections 41366.5, 41366.7, and 41367 to, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 1759, as amended, Lewis. Charter School Revolving Loan Fund: defaults: interest payments.

Existing law establishes the Charter School Revolving Loan Fund and requires, if a charter school defaults on a loan from the fund, the chartering authority also to be liable for repayment of the loan.

This bill would instead require the charter school to be solely liable.

The bill would require moneys in the fund to be loaned at the interest rate earned by the money in the Pooled Money Investment Account as of the date of disbursement of the funds to the charter school, and would require interest payments to be paid into the Charter School Security Fund, which would be established by the bill. The bill would require moneys in the Charter School Security Fund to be available for deposit into the Charter School Revolving Loan Fund in case of default on any loan made from the Charter School

Revolving Loan Fund. This bill would also require the Director of Finance to monitor the adequacy of the fund and report annually to the Legislature on the need, if any, to adjust the interest rate for loans from the fund or to revise any other aspect of the default recovery plan.

*The bill would incorporate additional changes in Section 41365 of the Education Code proposed by SB 1728, that would become operative only if SB 1728 and this bill are both chaptered and become effective on or before January 1, 2001, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 41365 of the Education Code is  
2 amended to read:  
3 41365. (a) The Charter School Revolving Loan Fund  
4 is hereby created in the State Treasury. The Charter  
5 School Revolving Loan Fund shall be comprised of  
6 federal funds obtained by the state for charter schools and  
7 any other funds appropriated or transferred to the fund  
8 through the annual budget process. Funds appropriated  
9 to the Charter School Revolving Loan Fund shall remain  
10 available for the purposes of the fund until  
11 reappropriated or reverted by the Legislature through  
12 the annual Budget Act or any other act.  
13 (b) Loans may be made from moneys in the Charter  
14 School Revolving Loan Fund to a chartering authority for  
15 charter schools that are not a conversion of an existing  
16 school, or directly to a charter school that qualifies to  
17 receive funding pursuant to Chapter 6 (commencing  
18 with Section 47630) that is not a conversion of an existing  
19 school, upon application of a chartering authority or  
20 charter school and approval by the Superintendent of  
21 Public Instruction. A loan is for use by the charter school  
22 during the period from the date the charter is granted  
23 pursuant to Section 47605 to the end of the fiscal year in  
24 which the charter school first enrolls pupils. Money  
25 loaned to a chartering authority for a charter school, or to



1 a charter school, pursuant to this section shall be used only  
2 to meet the purposes of the charter granted pursuant to  
3 Section 47605. The loan to a chartering authority for a  
4 charter school, or to a charter school, pursuant to this  
5 subdivision shall not exceed two hundred fifty thousand  
6 dollars (\$250,000). This subdivision does not apply to a  
7 charter school that obtains renewal of a charter pursuant  
8 to Section 47607.

9 (c) Commencing with the first fiscal year following  
10 the fiscal year the charter school first enrolls pupils, the  
11 Controller shall deduct from apportionments made to the  
12 chartering authority or charter school, as appropriate, an  
13 amount equal to the annual repayment of the amount  
14 loaned to the chartering authority or charter school for  
15 the charter school under this section and pay the same  
16 amount into the Charter School Revolving Loan Fund in  
17 the State Treasury. Repayment of the full amount loaned  
18 to the chartering authority shall be deducted by the  
19 Controller in equal annual amounts over a number of  
20 years agreed upon between the loan recipient and the  
21 State Department of Education, not to exceed five years  
22 for any loan.

23 (d) (1) Notwithstanding other provisions of law, a  
24 loan may be made directly to a charter school pursuant  
25 to this section only in the case of a charter school that is  
26 incorporated.

27 (2) Notwithstanding other provisions of law, in the  
28 case of default of a loan made directly to a charter school  
29 pursuant to this section, the charter school shall be solely  
30 liable for repayment of the loan.

31 *SEC. 1.5. Section 41365 of the Education Code is*  
32 *amended to read:*

33 41365. (a) The Charter School Revolving Loan Fund  
34 is hereby created in the State Treasury. The Charter  
35 School Revolving Loan Fund shall be comprised of  
36 federal funds obtained by the state for charter schools and  
37 any other funds appropriated or transferred to the fund  
38 through the annual budget process. Funds appropriated  
39 to the Charter School Revolving Loan Fund shall remain  
40 available for the purposes of the fund until

1 reappropriated or reverted by the Legislature through  
2 the annual Budget Act or any other act.

3 (b) Loans may be made from moneys in the Charter  
4 School Revolving Loan Fund to a chartering authority for  
5 charter schools that are not a conversion of an existing  
6 school, or directly to a charter school that qualifies to  
7 receive funding pursuant to Chapter 6 (commencing  
8 with Section 47630) that is not a conversion of an existing  
9 school, upon application of a chartering authority or  
10 charter school and approval by the Superintendent of  
11 Public Instruction. ~~A loan is for use by the charter school~~  
12 ~~during the period from the date the charter is granted~~  
13 ~~pursuant to Section 47605 to the end of the fiscal year in~~  
14 ~~which the charter school first enrolls pupils.~~ Money  
15 loaned to a chartering authority for a charter school, or to  
16 a charter school, pursuant to this section shall be used only  
17 to meet the purposes of the charter granted pursuant to  
18 Section 47605. The loan to a chartering authority for a  
19 charter school, or to a charter school, pursuant to this  
20 subdivision shall not exceed two hundred fifty thousand  
21 dollars (\$250,000) *over the lifetime of the charter school.*  
22 *A charter school may receive money obtained from*  
23 *multiple loans made directly to the charter school or to*  
24 *the school's chartering authority from the Charter School*  
25 *Revolving Loan Fund, as long as the total amount*  
26 *received from the fund over the lifetime of the charter*  
27 *school does not exceed two hundred fifty thousand dollars*  
28 *(\$250,000).* This subdivision does not apply to a charter  
29 school that obtains renewal of a charter pursuant to  
30 Section 47607.

31 (c) *The Superintendent of Public Instruction may*  
32 *consider all of the following when making a*  
33 *determination as to the approval of a charter school's loan*  
34 *application:*

35 (1) *Soundness of the financial business plans of the*  
36 *applicant charter school.*

37 (2) *Availability of the charter school of other sources*  
38 *of funding.*

39 (3) *Geographic distribution of loans made from the*  
40 *Charter School Revolving Loan Fund.*

1 (4) *The impact that receipt of funds received pursuant*  
2 *to this section will have on the charter school's receipt of*  
3 *other private and public financing.*

4 (5) *Plans for creative uses of the funds received*  
5 *pursuant to this section, such as loan guarantees or other*  
6 *types of credit enhancements.*

7 (6) *The financial needs of the charter school.*

8 (d) *Priority for loans from the Charter School*  
9 *Revolving Loan Fund shall be given to new charter*  
10 *schools for startup costs.*

11 (e) Commencing with the first fiscal year following  
12 the fiscal year the charter school ~~first enrolls pupils~~  
13 *receives the loan*, the Controller shall deduct from  
14 apportionments made to the chartering authority or  
15 charter school, as appropriate, an amount equal to the  
16 annual repayment of the amount loaned to the chartering  
17 authority or charter school for the charter school under  
18 this section and pay the same amount into the Charter  
19 School Revolving Loan Fund in the State Treasury.  
20 Repayment of the full amount loaned to the chartering  
21 authority shall be deducted by the Controller in equal  
22 annual amounts over a number of years agreed upon  
23 between the loan recipient and the State Department of  
24 Education, not to exceed five years for any loan.

25 ~~(d)~~

26 (f) (1) Notwithstanding other provisions of law, a loan  
27 may be made directly to a charter school pursuant to this  
28 section only in the case of a charter school that is  
29 incorporated.

30 (2) Notwithstanding other provisions of law, in the  
31 case of default of a loan made directly to a charter school  
32 pursuant to this section, the ~~chartering authority shall,~~  
33 ~~also,~~ *charter school shall* be solely liable for repayment of  
34 the loan.

35 SEC. 2. Section 41366.5 is added to the Education  
36 Code, to read:

37 41366.5. (a) Moneys in the Charter School Revolving  
38 Loan Fund shall be loaned at the interest rate earned by  
39 the money in the Pooled Money Investment Account as

1 of the date of disbursement of the funds to the charter  
2 school.

3 (b) A charter school shall pay the interest on any loan  
4 from the fund in regular installments withdrawn from the  
5 annual apportionment the charter school receives.

6 (c) All interest payments shall be paid into the Charter  
7 School Security Fund established pursuant to Section  
8 41367.

9 SEC. 3. Section 41366.7 is added to the Education  
10 Code, to read:

11 41366.7. The Director of Finance shall monitor the  
12 adequacy of the amount of funds in the Charter School  
13 Security Fund and report annually to the Legislature on  
14 the need, if any, to adjust the interest rate set forth in  
15 Section 41366.5 or to revise any other aspect of the default  
16 recovery plan.

17 SEC. 4. Section 41367 is added to the Education Code,  
18 to read:

19 41367. (a) The Charter School Security Fund is  
20 hereby created in the State Treasury.

21 (b) Moneys in the fund shall be available for deposit  
22 into the Charter School Revolving Loan Fund in case of  
23 default on any loan made from the Charter School  
24 Revolving Loan Fund.

25 *SEC. 5. Section 1.5 of this bill incorporates*  
26 *amendments to Section 41365 of the Education Code*  
27 *proposed by both this bill and SB 1728. It shall only*  
28 *become operative if (1) both bills are enacted and*  
29 *become effective on or before January 1, 2001, (2) each*  
30 *bill amends Section 41365 of the Education Code, and (3)*  
31 *this bill is enacted after SB 1728, in which case Section 1*  
32 *of this bill shall not become operative.*

